action against the wrongdoer, it would be equal to saying that "all the requirements of decency, humanity, morality and Christianity may be disregarded with impunity." *Meagher* v. *Driscoll,* 99 Mass. 281; *Hale* v. *Bonner et al.,* 82 Tex. 33; 17 S. W. 605; 27 Am. St. Rep. 850; *Renihan et al.* v. *Wright et al.,* 125 Ind. 536; 25 N. E. 822; *Wells, Fargo & Co.'s Express* v. Fuller, 13 Tex. Civ. Appeals 610, 35 S. W. 824. If it is contended that mental suffering unaccompanied by physical injury as an element of damages is difficult to ascertain, the answer is that the same difficulty arises in cases of slander, libel, breach of marriage contract, seduction, etc. Other courts contend that the law does not deal with emotions, feelings and those finer qualities of man. Here it may be "answered that the parties themselves have contracted with respect to those very things, which naturally affect the feelings and emotions." *Louisville & Nashville R. R. Co.* v. *Hull,* 113 Ky. 561; 68 S. W. 433.

EASEMENTS—ADVERSE POSSESSION—COLOR OF TITLE.—An abutting owner brought an action against an elevated railroad for injury to his easements of light, air and access. The railroad was constructed in 1879 and entered into possession under the mistaken belief that it owned the easements by virtue of a grant from the City of New York. The road was operated and maintained for more than twenty years, the prescriptive period, in front of plaintiff's premises. In 1900 and 1901 the vice-president of the road petitioned the state board of tax commissioners for a reduction of its franchise taxes, reciting that the company had paid a specified sum for damages to abutting owners and would be required in the future to pay about $8,000,000 more to obtain the unobstructed right to exercise its franchise. *Held,* that the possession taken by the railroad was open, hostile and exclusive, ripening into a prescriptive right by lapse of time. *Hindley* v. *Manhattan Ry. Co. et al.* (1906), — N. Y. —, 78 N. E. Rep. 276.

In 1882 the law was announced in New York in *Story* v. *N. Y. El. R. R. Co.,* 90 N. Y. 122, that the easements of light, air and access belonged to the abutting owner and not to the city. The defendants entered into possession in the mistaken belief that they owned the easements, but they were nothing more than trespassers, and their action was adverse. An entry under legislative and municipal authority is under apparent authority to appropriate the easements of the abutting owners to the purposes of the entry, and is sufficient for the claim of prescriptive right to rest upon. *Jackson* v. *Smith,* 13 Johns. 406; *Northrop* v. *Wright,* 7 Hill, 476; *Herzog* v. *N. Y. El. R. R. Co.,* 76 Hun 486; *American Bank Note Co.* v. *N. Y. El. R. R. Co.,* 27 N. Y. Supp. 1034, 29 N. E. 302. The decision of the General Term, affirmed by the Appellate Court, giving the plaintiff damages was reversed on exception to the admission of evidence of petitions by the company for a reduction of taxes, and of settlements with other abutting owners. Such petitions were held not to be an assertion by the railroad that it had no defense founded on prescription. It is evident that a settlement with abutting owners could not affect the plaintiff, as it was not connected with the particular lot in question. *White* v. *Manhattan Ry. Co.,* 139 N. Y. 19, 34 N. E. 887.